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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

BELLGRAU et al.

Serial No.: 10/825,282

Filed: April 14, 2004

Atty. File No.: 3921-1-1-1-1

For: VIRAL VECTORS ENCODING
APOPTOSIS-INDUCING PROTEINS
AND METHODS FOR MAKING
AND USING THE SAME

Group Art Unit: 1633

Examiner: Kaushal, S.

DECLARATION OF
DONALD BELLGRAU,
RICHARD C. DUKE, AND
JEROME B. SCHAACK
(37 CFR § 1.131)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

We, Donald Bellgrau, Richard C. Duke and Jerome B. Schaack, each declare as follows:

1. I am a co-inventor of the above-referenced patent application and am familiar with the application.
2. This Declaration under 37 CFR 1.131 is being submitted in conjunction with an Amendment and Response to an Office Action having a mailing date of April 18, 2007.
3. This Declaration provides factual evidence that the invention as claimed in the above-identified patent application was conceived of and reduced to practice at least prior to the publication date of Shinoura et al., *Human Gene Therapy* 9(18):2683-2689, which is December 10, 1998. All acts relied upon to establish the dates of conception and actual reduction to practice were carried out in the United States.

Conception and Reduction to Practice

As evidence of conception and actual reduction to practice of the claimed invention by a date prior to at least December 10, 1998, enclosed as Exhibit A is a manuscript that discloses completed experiments that were performed in the present inventors' laboratories and that describe the presently claimed invention. This manuscript was prepared by a date prior to at least December 10, 1998 and accordingly, the

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Group Art Unit: 1633

Confirmation No. 7928

Examiner: Kaushal, S.

DECLARATION OF
RICHARD C. DUKE AND
JEROME B. SCHAAACK
(37 CFR § 1.132)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

We, Richard C. Duke and Jerome B. Schaack, each declare as follows:

1. I am a co-inventor of the above-referenced patent application and am familiar with the application.
2. This Declaration under 37 CFR 1.132 is being submitted in conjunction with an Amendment and Response to an Office Action having a mailing date of April 18, 2007.
3. I am a coauthor of the publication of Hedlund et al., entitled, "Adenovirus-mediated Expression of Fas Ligand Induces Apoptosis of Human Prostate Cancer Cells", *Cell Death and Differentiation*, 6:155-182, February 1999.
4. The publication of Hedlund et al. identified in paragraph 3 above is a publication which describes aspects of the invention disclosed in the above-referenced patent application.
5. The inventorship of the above-referenced patent application is correct in that the publication of Hedlund et al. discloses subject matter invented by Richard C. Duke or Jerome B. Schaack, rather than derived from the authors notwithstanding the authorship of the article. Specifically, coauthors of the publication of Hedlund et al., Tammy E. Hedlund, Sandra J. Meech, Sampathkumar Srikanth, Andrew S. Kraft, and Gary J. Miller, were merely working under the direction of one or both of Richard C. Duke or Jerome B. Schaack, and are not

RCD
10-16-07